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ATTORNEY FOR PLAINTIFF

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

ALICE HADLEY TRUE CRAIN,

Plaintiff,

vs.

NANCY A. BERRYHILL, Deputy
Commissioner for Operations, performing the
duties and functions not reserved to the
Commissioner of Social Security,

Defendant.

Case No.: 1:16-cv-06292-RMI

**STIPULATION FOR THE
AWARD AND PAYMENT OF
ATTORNEY FEES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT, 28 U.S.C. § 2412(d),
AND ~~PROPOSED~~ ORDER**

TO THE HONORABLE ROBERT M. ILLMAN, MAGISTRATE JUDGE OF THE
DISTRICT COURT:

Plaintiff's Counsel, Kenneth J. Collins passed away on April 23, 2018. Jennifer Collins is the special administrator of the Estate of Kenneth J. Collins. A copy of the Order for Probate Special Administrator dated June 8, 2018 is attached as Exhibit 1.

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel and special administrator, Jennifer Collins for the Estate of Kenneth J. Collins, subject to

1 the approval of the Court, that Plaintiff be awarded attorney fees in the amount of FIVE
2 THOUSAND, FOUR HUNDRED DOLLARS AND 00/100 CENTS (\$5,400.00) under the
3 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation
4 for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil
5 action, in accordance with 28 U.S.C. §§ 1920; 2412(d) (Attorney's hourly rate is \$192.68 times
6 28.10 hours equals \$5,414.30).

7 After the Court issues an order for EAJA fees to Plaintiff, the government will consider
8 the matter of ALICE CRAIN assignment of EAJA fees to the Estate of Kenneth J. Collins. The
9 retainer agreement containing the assignment is attached as Exhibit 2. Pursuant to *Astrue v.*
10 *Ratliff*, 130 S.Ct. 2521, 2529 (2010), the ability to honor the assignment will depend on whether
11 the fees are subject to any offset allowed under the United States Department of the Treasury's
12 Offset Program. After the order for EAJA fees is entered, the government will determine
13 whether they are subject to any offset.

14 Fees shall be made payable to ALICE CRAIN, but if the Department of the Treasury
15 determines that ALICE TRUE CRAIN does not owe a federal debt, then the government shall
16 cause the payment of fees, expenses and costs to be made directly to Mr. Collins, pursuant to the
17 assignment executed by ALICE CRAIN. Any payments made shall be delivered to Mr. Collins.

18 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA
19 attorney fees, and does not constitute an admission of liability on the part of Defendant under the
20 EAJA or otherwise. Payment of FIVE THOUSAND, FOUR HUNDRED DOLLARS AND
21 00/100 CENTS (\$5,400.00) in EAJA attorney fees, shall constitute a complete release from, and
22 bar to, any and all claims that Plaintiff CRAIN and Plaintiff's Attorney Kenneth J. Collins may
23 have relating to EAJA attorney fees and expenses in connection with this action. This award is
24 without prejudice to the rights of Plaintiff's Attorney, Kenneth J. Collins to

1 seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause
2 provisions of the EAJA.

3
4
5 Respectfully submitted,

6 Dated: June 29, 2018

/s/ Jennifer Collins
JENNIFER COLLINS
Special Administrator for the Estate of
Kenneth J. Collins, Attorney for Plaintiff

8
9 Dated: June 29, 2018

ALEX G. TSE
Acting United States Attorney

10
11 /s/ Jeffrey Chen
JEFFREY CHEN
Special Assistant United States Attorney
Attorneys for Defendant

12
13
14 **ORDER**

15 PURSUANT TO STIPULATION, IT IS SO ORDERED that Plaintiff shall be awarded
16 attorney fees in the amount of FIVE THOUSAND FOUR HUNDRED DOLLARS AND
17 00/100 CENTS (\$5,400.00).

18 _____, as authorized by 28 U.S.C. 2412(d), subject to the terms of the above-referenced
19 Stipulation.

20
21 Dated: 7/2/2018



HONORABLE ROBERT M. ILLMAN
United States Magistrate Judge

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): AMY MENDOZA-STOVER 248544 THE HARLAND LAW FIRM LLP 954 MAIN STREET FORTUNA, CA 95540		TELEPHONE AND FAX NOS.: (707) 725-4426 (707) 725-5738	FOR COURT USE ONLY FILED JUN 04 2018 SUPERIOR COURT OF CALIFORNIA COUNTY OF HUMBOLDT
ATTORNEY FOR (Name) Petitioner SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT STREET ADDRESS: 825 FIFTH STREET MAILING ADDRESS: CITY AND ZIP CODE: EUREKA, CA 95501 BRANCH NAME:			
ESTATE OF (Name): KENNETH JAMES COLLINS aka KEN COLLINS aka KENNETH J. COLLINS aka KENNETH COLLINS		DECEDENT	
LETTERS <input type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION WITH WILL ANNEXED		<input type="checkbox"/> OF ADMINISTRATION <input checked="" type="checkbox"/> SPECIAL ADMINISTRATION	
			CASE NUMBER: PR180126

LETTERS

1. ☐ The last will of the decedent named above having been proved, the court appoints (name):
- a. ☐ executor.
b. ☐ administrator with will annexed.
2. ☒ The court appoints (name):
JENNIFER COLLINS
 a. ☐ administrator of the decedent's estate.
 b. ☒ special administrator of decedent's estate
 (1) ☒ with the special powers specified in the Order for Probate.
 (2) ☐ with the powers of a general administrator.
 (3) ☒ letters will expire on (date):
 ON ISSUANCE OF GENERAL LETTERS
3. ☐ The personal representative is authorized to administer the estate under the Independent Administration of Estates Act ☐ with full authority ☐ with limited authority (no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
4. ☐ The personal representative is not authorized to take possession of money or any other property without a specific court order.

WITNESS, clerk of the court, with seal of the court affixed.


 Date: **6.4.18**
 Clerk, by **KIM M. BARTLESON**

(DEPUTY)

AFFIRMATION

1. ☐ PUBLIC ADMINISTRATOR: No affirmation required (Prob. Code, § 7621(c)).
2. ☒ INDIVIDUAL: I solemnly affirm that I will perform the duties of personal representative according to law.
3. ☐ INSTITUTIONAL FIDUCIARY (name):

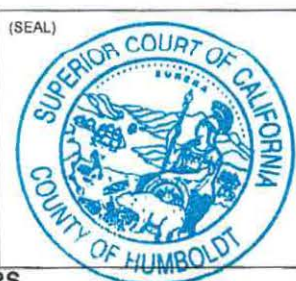
I solemnly affirm that the institution will perform the duties of personal representative according to law. I make this affirmation for myself as an individual and on behalf of the institution as an officer.
 (Name and title):

4. Executed on (date): **May 22, 2018**
 at (place): **San Diego**, California.

JENNIFER COLLINS (SIGNATURE)

CERTIFICATION

I certify that this document is a correct copy of the original on file in my office and the letters issued the personal representative appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.


 Date: **JUN 08 2018**
 Clerk, by **Morgan P.**

KIM M. BARTLESON (DEPUTY)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state, number, and address): AMY MFENDOZA-STOVER (CSB 248544) (707) 725-4426 THE HARLAND LAW FIRM LLP 954 MAIN STREET FORTUNA, CA 95540	TELEPHONE AND FAX NO. FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 1.2em; font-weight: bold; margin: 5px 0;">JUN 01 2018</div> <div style="font-size: 0.8em; margin: 5px 0;">SUPERIOR COURT OF CALIFORNIA COUNTY OF HUMBOLDT</div>
ATTORNEY FOR (Name): Petitioner SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT STREET ADDRESS: 825 FIFTH STREET MAILING ADDRESS: CITY AND ZIP CODE: EUREKA, CA 95501 BRANCH NAME:	CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold; margin: 10px 0;">PR180126</div>
ESTATE OF (Name): KENNETH JAMES COLLINS aka KEN COLLINS aka KENNETH J. COLLINS aka KENNETH COLLINS DECEDENT	
<div style="text-align: center; font-weight: bold; margin-bottom: 10px;">ORDER FOR PROBATE</div> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> ORDER <input type="checkbox"/> Executor APPOINTING <input type="checkbox"/> Administrator with Will Annexed <input type="checkbox"/> Administrator <input checked="" type="checkbox"/> Special Administrator <input type="checkbox"/> Order Authorizing Independent Administration of Estate <input type="checkbox"/> with full authority <input type="checkbox"/> with limited authority </div> <div style="width: 35%;"></div> </div>	
WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.	

1. Date of hearing: NONE REQUIRED Time: 2:00 pm Dept./Room: 6 Judge:

THE COURT FINDS

2. a. All notices required by law have been given.
 b. Decedent died on (date): 4/23/2018
 (1) ☒ a resident of the California county named above.
 (2) ☐ a nonresident of California and left an estate in the county named above.
 c. Decedent died
 (1) ☒ intestate
 (2) ☐ testate
 and decedent's will dated: _____ and each codicil dated: _____
 was admitted to probate by Minute Order on (date): _____

THE COURT ORDERS

3. (Name): **JENNIFER COLLINS**
 is appointed **personal representative**:
 a. ☐ executor of the decedent's will
 b. ☐ administrator with will annexed
 c. ☐ administrator
 d. ☒ special administrator
 (1) ☐ with general powers
 (2) ☒ with special powers as specified in Attachment 3d(2)
 (3) ☒ without notice of hearing
 (4) ☒ letters will expire on (date): issuance of general letters
 and letters shall issue on qualification.
4. a. ☐ Full authority is granted to administer the estate under the Independent Administration of Estates Act.
 b. ☐ Limited authority is granted to administer the estate under the Independent Administration of Estates Act (there is no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
5. a. ☒ Bond is not required.
 b. ☐ Bond is fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law.
 c. ☐ Deposits of: \$ _____ are ordered to be placed in a blocked account at (specify institution and location): _____ and receipts shall be filed. No withdrawals shall be made without a court order. ☐ Additional orders in Attachment 5c.
 d. ☐ The personal representative is not authorized to take possession of money or any other property without a specific court order.
6. ☐ (Name): _____ is appointed probate referee.

Date: 6/1/18

7. ☐ Number of pages attached: _____

☐ SIGNATURE FOLLOWS LAST ATTACHMENT

Gregory Elvine-Kreis

JUDGE OF THE SUPERIOR COURT

ORDER FOR PROBATE

Probate Code, §§ 8006, 8400

Form approved by the
Judicial Council of California
DE-140 [Rev. January 1, 1998]
Mandatory Form [1/1/2000]

CEB Essential
ceb.com **Forms**

Collins Jennifer

ATTACHMENT 3d(2)

The immediate appointment of a special administrator is necessary because the decedent has an active law practice and no one has authority to continue the operation of the business. A special administrator needs to be appointed to oversee the management of business, and tend to the day to day operations necessary to continue the operation of the business.

Requested Powers: take all action necessary to manage decedent's business, including but not limited to:

- a. Execute documents necessary to transfer cases to new attorneys;
- b. File fee petitions for cases that decedent prevailed in where decisions were entered after his death;
- c. Access bank accounts and issue payroll and handle activities necessary for the continued operation of the business until it can be closed.



STATE OF CALIFORNIA)
COUNTY OF HUMBOLDT)

I HEREBY CERTIFY THIS INSTRUMENT TO
BE A FULL, TRUE AND CORRECT COPY OF THE
ORIGINAL AS THE SAME NOW APPEARS ON
FILE IN THIS OFFICE.

GIVEN UNDER MY HAND AND THE SEAL
OF THE SUPERIOR COURT OF CALIFORNIA,
COUNTY OF HUMBOLDT.

JUN 08 2018

THIS

BY

Morgan P. Bartleson

Morgan P.

KIM M. BARTLESON

DEPUTY CLERK

KENNETH J. COLLINS, CSBN 100579
ATTORNEY AT LAW
P.O. BOX 1193
ARCATA, CA 95518
(707) 822-1611, Fax (707) 822-1044
Email: aew1950@yahoo.com

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
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ALICE HADLEY CRAIN,
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Commissioner of Social Security,
Defendant.

) Case No.: 1:16-cv-06292-RMI

) **ASSIGNMENT OF EAJA FEE**

ASSIGNMENT OF EAJA FEE

I, Alice Hadley Crain, Plaintiff, in the above case, assign any entitlement that I may have to a fee under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. 2412, to my attorney Kenneth J. Collins. I acknowledge that the fee compensates my attorney, Kenneth J. Collins in whole or in part, depending on whether I am ultimately awarded benefits before the U.S. District Court. Therefore, I direct that the EAJA award should be made payable to counsel and not to me as the Plaintiff.

WHEREFORE, I assign any right interest I may have in the award of an EAJA fee and understand that the EAJA award shall be paid to my attorney, Kenneth J. Collins, to help compensate counsel for the work performed on this case in the U.S. District Court and, when

Assignment of EAJA Fee, Case No. 1:16-cv-06292-RMI- 1

1 applicable, before the Commissioner on remand.

2
3 Dated:

2-20-18

Alice H. Crain
Alice Hadley Crain, Plaintiff